

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 634

Introduced by Dierks, 40

Read first time January 17, 2007

Committee: Agriculture

A BILL

- 1 FOR AN ACT relating to agriculture; to adopt the Feedlot Statutory
- 2 Trust Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 4 of this act shall be known and
2 may be cited as the Feedlot Statutory Trust Act.

3 Sec. 2. The Legislature finds that there is a burden
4 on and obstruction to commerce regarding livestock financing
5 arrangements under which feedlot operators encumber, give lenders
6 security interest in, or allow liens to be place on livestock
7 purchased by feedlot operators from cash sellers or on the
8 receivables or proceeds from such livestock, and when such
9 encumbrances, security interests, and liens take priority over
10 cash sellers that have not been paid, such arrangements are
11 contrary to the public interest. The Feedlot Statutory Trust Act
12 is intended to remedy such burden on and obstruction to commerce
13 regarding livestock and to protect the public interest.

14 Sec. 3. For purposes of the Feedlot Statutory Trust Act:

15 (1) Cash seller means a person selling livestock,
16 including a livestock dealer or market agency buying and selling
17 livestock on commission, who (a) has not entered into a written
18 credit agreement with the feedlot operator, (b) has made a demand
19 for payment within seven days after the feedlot operator has
20 possession of the livestock, and (c) has not been paid by the
21 feedlot operator for the livestock;

22 (2) Director means the Director of Agriculture or his or
23 her designated representative;

24 (3) Dishonored means that a payment instrument is not
25 paid when presented;

1 (4) Feedlot means an enterprise engaged in the business
2 of feeding livestock for itself or for other persons;

3 (5) Livestock means cattle, swine, or sheep;

4 (6) Person means an individual, partnership, limited
5 liability company, corporation, association, or other entity; and

6 (7) Operator means the owner or person managing or in
7 control of.

8 Sec. 4. (1) Except for livestock that serve as
9 purchase-money collateral for a perfected purchase money security
10 interest, all livestock purchased by a feedlot operator, whether
11 directly or by its agent or representative, from a cash seller
12 and all receivables and proceeds from the sale of such livestock
13 shall be held by the feedlot operator in trust for the benefit
14 of the cash seller of such livestock until full payment has been
15 received by the cash seller. For purposes of this section, a
16 secured party's purchase-money security interest shall not extend
17 beyond the value given by the secured party to enable the feedlot
18 operator to acquire rights in the livestock involved in the
19 specific transaction at issue. Payment shall not be deemed to have
20 been made if the cash seller receives a payment instrument that is
21 dishonored. A cash seller loses the benefit of the trust if the
22 cash seller fails to give written notice of nonreceipt of payment
23 to the feedlot operator and to the director:

24 (a) Within thirty days after the next business day
25 following the purchase and transfer of possession of the livestock;

1 or

2 (b) Within fifteen business days after the cash seller
3 receives notice that a payment instrument promptly presented for
4 payment has been dishonored.

5 (2) The trust interest of a cash seller under this
6 section cannot be waived prior to the feedlot operator's purchase
7 of the livestock. Livestock or the proceeds from the sale of
8 livestock do not lose their status as trust assets as a result
9 of being commingled with other livestock or funds and no tracing
10 of specific livestock or proceeds therefrom is required. The trust
11 interest of a cash seller under this section does not impair
12 the passage of title to livestock obtained from a cash seller
13 in accordance with relevant provisions of law but continues in
14 the proceeds from the sale of such livestock and is preserved
15 irrespective of title to the livestock.

16 (3) A cash seller may institute legal action to enforce
17 the trust created by this section. The director may institute legal
18 action, or intervene in any legal proceeding, for the benefit of
19 beneficiaries of a trust created by this section if necessary to
20 effect the purpose of this section.